

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
DELTA DIVISION**

MONTY M. SHELTON,
REG. NO. 10426-078

PLAINTIFF

v.

2:19-cv-00145-JM-JJV

UNITED STATES OF AMERICA; and
SISSEL, Officer, SIS Investigations

DEFENDANTS

ORDER

The Court has reviewed the Recommendation submitted by United States Magistrate Judge Joe J. Volpe and Plaintiff's objections. In his Objections, Plaintiff contends that his claim is not for property loss but instead the loss of his opportunity to earn income while in prison. Plaintiff's claim fails with regard to property loss and the loss of income from a prison job. Inmates do not have a constitutional right to a particular prison job or classification. *Sanders v. Norris*, 153 F. App'x 403 (8th Cir. 2005). Further, "Arkansas does not recognize the tort of negligent infliction of emotional distress." *Dowty v. Riggs*, 385 S.W.3d 117, 120–21 (Ark. 2010) (citing *FMC Corp. v. Helton*, 202 S.W.3d 490 (Ark. 2005); *Mechs. Lumber Co. v. Smith*, 752 S.W.2d 763 (1988)).

After conducting a *de novo* review, this Court adopts the Recommendation in its entirety as its findings in all respects.

IT IS THEREFORE ORDERED that:

1. Defendant United States of America's Motion to Dismiss (Doc. No. 9) is GRANTED, Plaintiff's FTCA claim is DISMISSED WITHOUT PREJUDICE for failing to state a claim upon which relief may be granted, and Defendant United States of America is DISMISSED as a party to this lawsuit.

2. It is certified, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from this Order would not be taken in good faith.

Dated this 21st day of July, 2020.


UNITED STATES DISTRICT JUDGE